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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HUNTER BURNS and HUNTER
BURNS CONSTRUCTION, LLC,

Defendant.

CR 13-99-GF-BMM

OFFER OF PROOF

Hunter Burns appears before the Court to enter a plea of Guilty to the charge contained in Count I of the Indictment on file herein. Hunter Burns Construction, LLC, appears before the Court through its authorized representative, Hunter Burns, to enter a plea of Guilty to the charge contained in Count I of the Indictment on file herein.

The United States, by and through its counsel, Carl E. Rostad and Ryan G. Weldon, Assistant U.S. Attorneys for the District of Montana, submits this Offer of Proof to provide the factual basis for the defendant's plea.

ELEMENTS:

**False Claims Act Conspiracy
Title 18 U.S.C. § 286**

First, beginning in or about March 29, 2010, and ending on or about April 22, 2010, there was an agreement between two or more persons to submit a false claim to the United States, that is, the submission of a false and fraudulent claim for \$100,000 to the Chippewa Cree Construction Corporation, which the conspirators knew would be assessed against a federally funded contract and reported to the United States Bureau of Reclamation as a legitimate contract claim; and,

Second, that Hunter Burns and Hunter Burns Construction, LLC, each became a member of the conspiracy knowing of its objects and intending to help accomplish it.

FACTUAL BASIS:

If this case went to trial in the United States District Court, the United States would prove the following:¹

I. THE CHIPPEWA CREE TRIBE AND FEDERAL FUNDING

The Chippewa Cree Tribe of the Rocky Boy's Indian Reservation is located in north central Montana and has a population of approximately 2500 tribal members. The Tribe is governed by an elected tribal council – the Chippewa Cree Business Committee — and the council and most government functions are headquartered at Box Elder, Montana.

Between October 2007 and September 2012, the Chippewa Cree Tribe received over \$420,439,495 in federal funding.

In addition to the over \$420 million in federal funding, the Tribe also received a \$25 million dollar insurance payment after the flooding of 2010, and an \$8.4 million dollar award under the *Cobell v Salazar* Settlement (July 2012).

¹ The offer of proof does not encompass all of the proof that the United States would offer at trial but only the proof that would be necessary to support the elements of the charges to which the defendant is pleading guilty. The United States possesses, or may possess, other evidence which may be redundant to the evidence described below or otherwise unnecessary to the purposes of this stage of the proceeding. The United States possesses, or may possess, other evidence which will more fully inform the Court as to the appropriate sentence. Neither the Court nor the defendant should consider this pleading as inclusive of all evidence known to the government or a self-imposed limitation on the evidence it may use in the future for purposes other than to support the entry of plea.

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The Tribe received \$33.19 million of the federally funded amount from the Department of the Interior's Bureau of Reclamation (BOR) between September 2009 and September 2010—primarily through the American Recovery and Reinvestment Act (ARRA) (also known as the Stimulus Bill)—to fund the Rocky Boys/North Central Montana Regional Water System Project.

II. THE CONSPIRATORS

In 2005, the Tribe passed a resolution creating the Chippewa Cree Construction Corporation for the specific purpose of having the tribe participate in the construction of the Rocky Boy's/NCMRWS Project. The Chippewa Cree Construction Corporation is an entirely tribally owned and federally chartered corporation, whose Board of Directors is comprised of members of the Chippewa Cree Tribal Business Council and a small number of members of the tribal community.

In 2006, the BOR entered into a Public Law 93-638 Indian Self Determination Act construction contract with the Chippewa Cree Tribe / Chippewa Cree Construction Corporation for the planning, design and construction of the Core System and the On Reservation components of this Rural Water System. By agreement of the parties, the money would be deposited directly with Chippewa Cree Construction Corporation.

When created, and during the period of the indictment, the Tribe hired Tony Belcourt to be the Chief Executive Officer and Contracting Officer for the construction corporation. Until 2009, Belcourt performed the services of CEO and Contracting Officer as an employee. In February of 2010, the Chippewa Cree Construction Corporation contracted with Ingin Enterprises for Belcourt's services and agreed to pay Belcourt, through Ingin Enterprises, approximately \$150,000 per year. Ingin Enterprises was a business entity owned and controlled by Tony Belcourt and Dr. James H. Eastlick, Jr., then a clinical psychologist at the Rocky Boy's Health Clinic. In his capacity as CEO and Contracting Officer, Belcourt selected subcontractors for work on the project, negotiated contracts, and approved contract payments.

Hunter Burns Construction LLC was formed as a Native American / minority-owned preference business in June 2009 to do business on the Rocky Boy's Indian Reservation, primarily on federally funded projects. The 51% majority owner of the company was Hunter Burns, and the other 49% of the company was owned by Dr. James H. Eastlick. Company books and records were handled by Eastlick's certified public accountant.

III. THE BELCOURT'S RANCHING OPERATION AND FINANCIAL CONDITION

In addition to his role at the Chippewa Cree Construction Corporation, Tony Belcourt and his wife, Hailey, operated a cattle ranch on the Rocky Boy's Indian Reservation. Between September 2005 and February 2008, Tony and Hailey Belcourt obtained eight loans from Independence Bank in Havre, MT totaling \$704,769. As collateral on most of the loans, the Belcourts pledged real property, their livestock, crops, and equipment. Independence Bank registered a lien on all property to protect its interest.

In April of 2009, the Bank did a year-end analysis for 2008. The Belcourts were 87 days past due on all loans and the Bank had issued a demand letter on April 3, 2009. The Bank initiated foreclosure on July 27, 2009.

On August 21, 2009, Tony Belcourt negotiated for the auction sale of 190 head of calves with a livestock auction company in Colorado. At Tony Belcourt's direction, all proceeds from the sale were made payable to Hailey's father who put the proceeds—\$107,153.09 —into his business account.

After the sale of cattle in October 2009, the Bank noted the decrease in cattle numbers at the Belcourt ranch and contacted the Montana Brands Enforcement Division to ascertain information regarding the possible sale of inventory. The inquiry led to the discovery of the sale of the secured property and the auction

company issued a check for \$107,153.09 payable to Tony & Hailey Belcourt & Independence Bank dated November 23, 2009. The company immediately demanded payment from the Belcourts for the money previously paid to Hailey Belcourt's father.

IV. HUNTER BURNS CONSTRUCTION PROVIDES \$100,000 TO TONY BELCOURT

Tony Belcourt approved and authorized a Chippewa Cree Construction Corporation payment to Hunter Burns Construction on November 21, 2009, in the amount of \$148,972. Two days later, on November 23, 2009, Hunter Burns Construction issued a \$100,000 check to Hailey Belcourt. The company recorded the payment as a personal loan to Hailey Belcourt and a Promissory Note was created and dated November 24 detailing a 1% interest rate and four week repayment term. Hailey Belcourt then used the money to re-pay the livestock auction company by wire transfer of \$107,153.09 on November 27, 2009.

V. TONY BELCOURT AND THE CHIPPEWA CREE CONSTRUCTION CORPORATION AWARD A \$1.7 MILLION CONTRACT TO HUNTER BURNS CONSTRUCTION

Three months later, on March 29, 2010, Tony Belcourt, as CEO and Contracting Officer for the Chippewa Cree Construction Corporation awarded a contract for approximately \$1.7 million to Hunter Burns Construction. In the company's bid, Hunter Burns Construction indicated that it would require \$15,000

in mobilization costs. One week later, on April 7, 2010, Hunter Burns Construction submitted invoice #103 in the amount of \$100,000 for mobilization costs. On that same date, April 7, 2010, Tony Belcourt authorized payment to Hunter Burns Construction for \$100,000.

Once deposited, \$25,000 was immediately provided to a tribal councilman and member of the Board of Directors of the Chippewa Cree Construction Corporation. Another \$25,000 was paid to the U.S. Treasury (\$20K) and the State of Montana Department of Revenue (\$5K) for the benefit of Dr. James Eastlick, Jr. Another \$25,000 was paid to the U.S. Treasury for the benefit of Hunter Burns, and Burns received another \$15,000 in proceeds directly. Within a few days, \$90,000 of the \$100,000 payment was distributed with no apparent relationship to mobilization expenses.

Two weeks later, Hunter Burns Construction was paid \$15,000 in mobilization costs on the contract by a second Chippewa Cree Construction Corporation check.

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DATED this 2nd day of April, 2014.

MICHAEL W. COTTER
United States Attorney

/s/ Carl E. Rostad
CARL E. ROSTAD
Assistant U.S. Attorney
Attorney for Plaintiff

/s/ Ryan G. Weldon
RYAN G. WELDON
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